

# Notice of Allowability

Application No.

10/769,578

Examiner

Mark Staples

Applicant(s)

LOWERY ET AL.

Art Unit

1637

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/10/2007.
2. ☒ The allowed claim(s) is/are 19, 28, and 29.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Mark Staples  
Examiner  
Art Unit: 1637

### **DETAILED ACTION**

1. Applicants' amendment of claims 19, 28, and 29 and the cancellation of claims 1-18, 20-27, and 30-33 in the paper filed on 09/10/2007 is acknowledged.

Claims 19, 28, and 29 are pending and at issue.

Applicants' amendments filed on 09/10/2007 have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Rejections that are Withdrawn***

2. The rejections of claims 19 and 29 under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (1985), Giovane et al. (1985), Seethala (2000), and Bredehorst (1978) are withdrawn in light of Applicant's amendments to overcome these rejections.

#### ***Allowable Subject Matter***

3. Claims 19, 28, and 29 are allowed.
4. The following is an examiner's statement of reasons for allowance. No prior art was found which teaches or fairly suggests the limitations of claims 19, 28, and 29. As conveyed in the Declaration of Robert Lowry under 37 CFR 1.132 filed on 01/02/2007, the prior art does not teach or fairly suggest the detection of the donor product ADP by

Art Unit: 1637

an antibody specific to ADP, in the presence of the donor ATP. No prior art was found by Examiner which teaches or fairly suggests the use of an antibody specific to ADP for detection of ADP in the presence of ATP.

The closest prior art found was Bredehorst (1978). Bredehorst teaches an antibody which binds to AMP, ADP, and ATP and binds to other structurally related compounds, but does not teach or fairly suggest an antibody specific to ADP.

Bredehorst does not teach or fairly suggest the detection of the donor product ADP by an antibody specific to ADP, in the presence of the donor ATP.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Close**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Staples whose telephone number is (571) 272-9053. The examiner can normally be reached on Monday through Thursday, 9:00 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Staples *MS*  
Examiner  
Art Unit 1637  
September 24, 2007

*Kenneth R. Horlick*  
KENNETH R. HORLICK, PH.D.  
PRIMARY EXAMINER

*9/25/07*